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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,501	03/13/2001	Carl R. Strathmeyer	024/1	1952

27538 7590 05/21/2003
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EXAMINER

NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,501

Applicant(s)

STRATHMEYER ET AL.

Examiner

Van Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is responsive to communications filed on March 13, 2001.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-3, 5-6, 8-9, 11-12, 14-15, and 17-18 recites the limitation "the information" in line 1 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 4, 7, 10, 13, 16, and 19-20 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,201,805, in view of Sengodan (US 6,490,275).

Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reason:

Both claims 1 of the instant application and the conflicting patent recite a method comprising transmitting from an application computer connected to a data network to a

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gatekeeper connected to the data network, over the data network, packetized messages indicative of telephone calls in progress at an endpoint of the data network, the application computer being located separately from the endpoint.

However, the conflicting patent does not call for transmitting, from the gatekeeper to the application computer over the data network, packetized messages indicative of the length of the telephone calls.

Sengodan discloses the Admission Request (ARQ) message indicates the length of the call (the duration of the conference, col. 7: lines 19-21).

Since it is highly desirable to reduce call setup time without adversely affecting the call setup functionality, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Sengodan's method of including the length of call in setup messages, in monitoring and control over calls in a packet network telephony environment as disclosed by the conflicting patent, motivated by the desire to improve call setup efficiency in multimedia communications systems.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, 7, 10, 13, 16, and 19-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Witchalls (US 6,407,996), in view of Sengodan (US 6,490,275).

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As shown in Figures 8-15, Witchalls discloses a method comprising transmitting from an application computer (302-308, 316, 317, 410, 420, 499) connected to a data network (309, 400) to a gatekeeper (300, 313, 314, 315) connected to the data network, over the data network, packetized messages indicative of telephone calls in progress at an endpoint of the data network (cols. 7-16, esp. col. 12: lines 15-20, and col. 13: lines 9-14), the application computer being located separately from the endpoint.

However, Witchalls does not call for transmitting from the gatekeeper to the application computer over the data network, packetized messages indicative of the length of the telephone calls.

Sengodan discloses the Admission Request (ARQ) message indicates the length of the call (the duration of the conference, col. 7: lines 19-21).

Since it is highly desirable to reduce call setup time without adversely affecting the call setup functionality, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Sengodan's method of including the length of call in setup messages, in Witchalls' packet network telephony system, motivated by the desire to improve call setup efficiency in multimedia communications systems.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Wong (US 6,185,288), Multimedia Call Signaling System and Method; Lindeberg et al (US 6,094,479), Computer Telephony Integration Gateway; Rosenberg et al (Programming Internet Telephony Services, 1999 IEEE, pages 42-49).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692.

The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on 703-305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

vk
May 9, 2003



DOUGLAS OLMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600